

LOCAL RULES
OF THE
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

These rules are current as of August 1, 2004

Last Amended August 1, 2004

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INTRODUCTION TO APRIL 15, 1997, AMENDMENTS

In accordance with the directive of the Judicial Conference of the United States and the provisions of Federal Rule of Bankruptcy Procedure 9029 and Federal Rule of Civil Procedure 83, the Local Rules of Bankruptcy Practice for the United States Bankruptcy Court for the District of New Jersey have been renumbered to correspond to their counterparts in the Federal Rules of Bankruptcy Procedure. The Advisory Committee on Bankruptcy Rules for the Judicial Conference of the United States approved a uniform numbering system for local bankruptcy rules.

The renumbering project involved the participation of members of this court and the Local Rules Subcommittee of the Lawyers Advisory Committee. This court acknowledges the efforts of Judge Kathryn C. Ferguson, U.S.B.J., who served as judicial liaison to the subcommittee; James J. Waldron, Clerk of the Bankruptcy Court; the members of the subcommittee: Karen Bezner, Esq., Nancy Isaacson, Esq., Rachael Lehr, Esq., and particularly Geraldine Ponto, Esq., who chaired the committee; and the analyst staff of the clerk's office composed of Andrew Kaczynski, Pat Meravi, Leanne Michalek, and Melissa Trugman. The Bankruptcy Court extends its appreciation to everyone involved in this project.

The final draft of the renumbered rules was submitted to the United States District Court for the District of New Jersey and was published in March 1997 in the *New Jersey Law Journal* and in the *New Jersey Lawyer*. These Rules have been approved by the United States District Court for the District of New Jersey. They are effective April 15, 1997.

FOR THE COURT,

WILLIAM H. GINDIN,

Chief Judge, United States Bankruptcy Court

April 15, 1997

D.N.J. LBR 1001-1 SCOPE OF RULES

- (a) These rules shall be cited as the "District of New Jersey Local Bankruptcy Rules, D.N.J. LBR _____" (hereinafter "Local Rules" or "Rules") of the United States Bankruptcy Court for the District of New Jersey (hereinafter "Court"). These rules and the Local Civil Rules of the United States District Court for the District of New Jersey (hereinafter "District Court Rules") shall be followed insofar as they are not inconsistent with the Bankruptcy Code (hereinafter "Code") and the Federal Rules of Bankruptcy Procedure (hereinafter "Fed. R. Bankr. P."). The forms appended hereto shall be known as the Local Bankruptcy Forms of the United States Bankruptcy Court for the District of New Jersey (hereinafter "Local Forms"). The local forms shall be used in the circumstances indicated by the titles to such forms.
- (b) These rules shall be construed to secure the just, speedy and inexpensive determination of cases and proceedings in the Court. The application of these rules in any case or proceeding may be modified or relaxed by the Court in the interests of justice.
- (c) From time to time, the Court may issue general orders and administrative procedures to supplement these Local Rules, copies of which may be obtained from the Clerk through the Court's web site, www.njb.uscourts.gov.

1997 Comment: Formerly Local Rule 1.

2001 Comment: This Rule amendment is intended to allow the Court to issue general orders to supplement the Local Rules, such as the Court's issuance of a general order to authorize the Court to establish practices and procedures for the filing, signing, and verification of documents by electronic means.

Reference: Fed. R. Bankr. P. 9029(a) Local Bankruptcy Rules.

D.N.J. LBR 1002-1 PETITION - GENERAL

- (a) *Content.* In addition to the requirements of the Code, Federal Rules of Bankruptcy Procedure and Official Forms, every voluntary and, to the extent possible, involuntary petition shall contain the following information:
- (1) The correct name, complete street address, city, state, and zip code of the debtor. The address stated on the petition shall be the actual location of the debtor's residence or principal place of business.
 - (2) In an individual petition, the correct full first, middle, and last name and the last four digits of the social security number of the debtor.
 - (3) In a business petition, the employer's identification number of the debtor.
 - (4) In a corporate petition, the signature of an officer or other authorized representative of the corporation.
 - (5) In a corporate petition, a copy of the corporate resolution authorizing the filing.
 - (6) In a partnership petition, a certification evidencing compliance with Fed. R. Bankr. P. 1004(a).
- (b) *Involuntary Petitions.* In involuntary petitions, the above subdivisions (a) (1) through (3) apply.

1997 Comment: Subpart (a)(1) through (a)(7) is the former Local Rule 2(b)(1)(A) through (G); Subpart (b) is the former Local Rule 2(b)(2).

2003 Comment: Subpart (a)(7) is deleted as duplicative of Fed. R. Bankr. P. 1008.

2004 Comment: Subpart (a)(2) is amended to require the last four digits of a debtor's social security number on an individual petition, in accordance with the amendments to the Federal Rules of Bankruptcy Procedure and Official Forms which became effective December 1, 2003, implementing the Judicial Conference's policy on privacy and public access to case files. Pursuant to the amendment to Fed. R. Bankr. P. 1007(f) an individual debtor must submit a verified statement that sets out the debtor's full social security number, or states that the debtor does not have a social security number. The statement is submitted, in accordance with instructions posted to the Court's website, but it is not filed in the case, and does not become a part of the Court record. Per the national rule amendment, the statement provides the information necessary to include on the service copy of the notice required under Rule 2002(a)(1). The corresponding amendment to Fed. R. Bankr.P. 1005 now provides that the caption of the petition include only the last four digits of the social security number.

Reference: 28 U.S.C. § 1930(a) Bankruptcy fees; 11 U.S.C. § 301 Voluntary cases; 11 U.S.C. § 302 Joint Cases; 11 U.S.C. § 303 Involuntary cases; Fed. R. Bankr. P. 1003 Involuntary Petition; Fed. R. Bankr. P. 1004 Partnership Petition; Fed. R. Bankr. P. 1005 Caption of Petition; Fed. R. Bankr.P. 1007 Lists, Schedules and Statements, Time Limits; Fed. R. Bankr. P. 1008 Verification of Petitions and Accompanying Papers; Fed. R. Bankr. P. 9011 Signing and Verification of Orders; Official Form 1.

D.N.J. LBR 1007-2 MAILING - LIST OR MATRIX

- (a) The matrix shall consist of an alphabetized mailing list of creditors (last name first, first name last), equity security holders, partners and other parties in interest with complete names and addresses, including zip codes. The matrix shall be filed with the petition, schedules and statement of affairs. The matrix shall be supplemented, to the extent required, by the filing of amended matrices containing only those additions in the amended schedules.
- (b) The matrix shall be arranged in a single column on each page, left justified, with margins of at least 1 inch using one of the following standard typefaces or print styles in 10 or 12 point size:
 - (1) Courier
 - (2) Arial
 - (3) Times New Roman
- (c) Each name and address block shall consist of no more than 5 lines with at least one blank line between each block. Each line shall be no more than 40 characters in length.
- (d) A matrix containing 50 or more parties shall be submitted in the form of a computer diskette accompanied by a paper copy. The diskette shall be prepared in accordance with **instructions** provided by the clerk.
- (e) A matrix submitted electronically shall be prepared in accordance with instructions provided by the clerk.

1997 Comment: Formerly Local Rule 2(c) (1) - (4).

2001 Comment: Subdivision (e) is intended to guide the procedure for submission of a matrix electronically.

Reference: Fed. R. Bankr. P. 1009 Amendments of Voluntary Petitions, Lists, Schedules and Statements;
D.N.J. LBR 1009-1.

D.N.J. LBR 1009-1 AMENDMENTS TO LISTS & SCHEDULES

Whenever an amendment to the list of creditors, schedules or statement of affairs is filed, the amended list of creditors, schedules and statement of affairs must be verified by the debtor. The amendment shall include *only* the changes and shall indicate if changes are additions or deletions. The amendment must also be in compliance with **D.N.J. LBR 1007-2**.

1997 Comment: Formerly Local Rule 2(d).

D.N.J. LBR 1019-1 CONVERSION - PROCEDURE FOLLOWING

- (a) Upon conversion of a chapter 13 case to a case under chapter 7, the chapter 13 trustee shall distribute any funds on hand to the debtor unless otherwise ordered by the Court.
- (b) Upon conversion of a chapter 13 case to a case under chapter 11, the chapter 13 trustee shall distribute any funds on hand to the debtor in possession or the chapter 11 trustee.

1997 Comment: Formerly Local Rule 34.

Reference: 11 U.S.C. § 1307 Conversion or dismissal; Fed. R. Bankr. P. 1017(d) Dismissal or Conversion of Case; Suspension; 11 U.S.C. § 704 Duties of trustees 11 U.S.C. § 1106 Duties of trustee and examiner; 11 U.S.C. § 1107 Rights, powers and duties of debtor in possession.

D.N.J. LBR 1073-1 ASSIGNMENT OF CASES

- (a) For purposes of the division of business, the Court shall be divided into three units known as "vicinages," which shall consist of the counties served by such units in the three federal Courthouses in this District.

The Newark vicinage consists of Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Sussex and Union Counties.

The Trenton vicinage consists of part of Burlington (except for the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Hunterdon, Mercer, Monmouth, Ocean, Somerset and Warren counties.

The Camden vicinage consists of Atlantic, part of Burlington (the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Camden, Cape May, Cumberland, Gloucester and Salem counties.

- (b) A petition commencing a case shall be filed in the vicinage in which the debtor resides if the debtor is an individual, or in which the debtor has its principal place of business within the District if the debtor is an entity other than an individual. The address stated on the petition shall be the actual location of the debtor's residence or principal place of business.
- (c) All papers in a case shall be filed in the vicinage in which the case is pending.
- (d) If the petition commencing a case states in writing that the case is related to another case which has been or is being filed in the same vicinage, the clerk shall assign the case to the judge to whom the lowest numbered related case has been assigned. All other case assignments shall be made by the random draw method used by the Court.
- (e) An application to transfer a case from one judge to another, or from one vicinage to another, shall be made to the judge to whom the case has been assigned. The application shall be on notice to the debtor, any trustee, any secured creditors, and any official committees.
- (f) If a case is dismissed, and, within 180 days of such dismissal, another bankruptcy case is filed as to the same debtor, the subsequent case shall be assigned to the same judge to whom the prior case was assigned.

1997 Comment: Formerly Local Rule 9

2002 Comment: This Rule amendment realigns the Newark Vicinage to include the Counties of Middlesex and Union.

Reference: Fed. R. Bankr. P. 5005 Filing and Transmittal of Papers

D.N.J. LBR 2004-1 DEPOSITIONS & EXAMINATION

- (a) If a party from whom an examination or document production is sought under Fed. R. Bankr. P. 2004 agrees to appear for examination or to produce documents voluntarily, no subpoena or Court order is required.
- (b) Any party in interest seeking to compel an examination or production of documents shall serve a subpoena pursuant to Fed. R. Bankr. P. 2004(c) without filing a motion or obtaining an order authorizing such examination or document production.
- (c) A subpoena pursuant to subdivision (b) shall not set the examination or document production for less than 14 days after service of the subpoena except by agreement of the deponent.
- (d) Upon motion of the deponent or any party in interest, the Court may quash or modify a subpoena pursuant to subdivision (b) for cause shown. The filing of such a motion prior to the date set for examination or document production shall stay the subpoena until the Court rules on the motion.
- (e) If a deponent fails or refuses to comply with a subpoena served pursuant to subdivision (b) and has not filed a motion pursuant to subdivision (d), the party who obtained the subpoena may file a motion for an order directing such examination or document production under Fed. R. Bankr. P. 2004(a).

1997 Comment: Formerly Local Rule 16.

2002 Comment: Subsection (e) of this rule was amended. The amendment eliminated language that held that upon motion, a deponent could be held in contempt pursuant to Fed. R. Bankr.P. 9016 and Fed.R.Civ.P. 45(c) in the event of noncompliance with a subpoena. The issuing party remains free to file a motion to enforce the subpoena in the event of noncompliance. The party to be deposed remains free to file a motion to quash.

Reference: Fed.R.Bankr.P. 2005 Apprehension and Removal of Debtor to Compel Attendance for Examination; Fed.R.Bankr.P. 4002 Duties of Debtor; Fed.R.Bankr.P. 9001(5) General Definitions.

D.N.J. LBR 2014-1 EMPLOYMENT OF PROFESSIONALS

- (a) *General Requirements.* In addition to the requirements of Fed. R. Bankr. P. 2014, an application for an order approving employment of a professional person shall be served upon the debtor, the trustee, the secured creditors, the official committees, and parties requesting notice of all proceedings. Any objection to such application shall be filed and served within 5 days of service of the application. A hearing may be conducted on the objection in the Court's discretion.
- (b) *Auctioneer Requirements.*
 - (1) In addition to the requirements of Fed. R. Bankr. P. 2014, an application for employment of an auctioneer shall contain the following:
 - (A) the applicant's qualifications and previous experience as an auctioneer;
 - (B) a statement as to whether the auctioneer or its principals have ever been convicted of any criminal offense, other than motor vehicle violations;
 - (C) a description of the property to be sold and the location.
 - (2) The application shall be accompanied by a surety bond in favor of the United States of America in an amount at least equal to the anticipated sale proceeds or proof as to the existence of an adequate blanket bond. The surety bond shall be conditioned upon the faithful and prompt performance of the auctioneer's duties and the accounting for all monies and property which may come into the auctioneer's possession, control or custody and for compliance with rules, orders and judgments of the Court. The auctioneer shall certify that the bond is presently in effect, and will remain in effect through turnover of the auction proceeds.

1997 Comment: Subpart (a) is former Local Rule 6; subpart (b) (1) and (2) is former Local Rule 7(a) and (b).

Reference: 11 U.S.C. § 327 Employment of professional persons; 11 U.S.C. § 1103 (a) Powers and duties of committees; [D.N.J. LBR 2016-1](#), [6004-1](#), [6005-1](#).

D.N.J. LBR 2016-1 COMPENSATION OF PROFESSIONALS

- (a) The statement of services rendered and itemization of expenses in an application for fees or expenses shall contain:
 - (1) A copy of the order of retention or authorization.
 - (2) The dates of services rendered.
 - (3) The services rendered on each date and the identity of the person rendering the service.
 - (4) The time spent in the rendering of each service. Computer time sheets showing the time units used may be attached to the application.
 - (5) The normal billing rate for each person.
 - (6) At the end of the application, a total of the time spent by each individual performing services.
 - (7) A list of actual, not estimated, expenses.
 - (8) For attorneys and accountants seeking allowance of fees in excess of \$10,000, except as provided in subdivision (g), a summary on Local Form No. 3 or 4.
 - (9) A narrative explanation of the nature of the work performed and the results achieved.
- (b) Appraisers shall include in the application the value of the appraised assets.
- (c) An auctioneer shall be allowed those expenses approved by the Court and, in addition, commissions on net proceeds of sale, not to exceed: 10% of the first \$50,000; 7% of the next \$50,000; 5% of the next \$50,000; and 3% of all amounts above \$150,000.
- (d) No Court appearances shall be required on applications by trustees, examiners and professional persons for commissions, fees and expenses, unless an objection is filed and served.
- (e) A copy of each application for allowances shall be served on the United States Trustee at the time of filing.
- (f) A trustee seeking commissions in excess of \$10,000 shall comply with all requirements of subdivision (a) of this Rule, except subdivision (a)(8). A trustee seeking commissions in an amount less than \$10,000 is exempt from the requirements of subdivisions (a)(2), (3), (4), (5), (6) and (8).
- (g) A professional retained on a contingency basis is exempt from the requirements of subdivisions (a)(2), (3), (4), (5), (6) and (8).
- (h) Objections to applications for allowance shall be filed and served no less than 7 days prior to the scheduled hearing date.
- (i) *Chapter 11.* Professionals retained in a Chapter 11 case pursuant to 11 U.S.C. 327 and 1103 seeking post-petition interim compensation and reimbursement of expenses pursuant to 11 USC sections 105(a) and 331 for services rendered and expenses incurred during a Chapter 11 case may file a motion seeking the entry of an administrative order in accordance with the Court's *General Order Adopting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals*. All applications for allowance of fees and expenses

shall be filed within 90 days after entry of a final order confirming a plan, or such fees and expenses shall be deemed to be waived.

(j) *Chapter 13.*

- (1) If the fee of the attorney for the debtor disclosed pursuant to Fed. R. Bankr. P. 2016(b) exceeds \$2,000.00, the attorney for the debtor shall file and serve on the Chapter 13 trustee and the debtor an application for allowances not less than 7 days before the confirmation hearing.
- (2) For supplemental fee applications of up to \$1,000.00 per application, for the services listed in D.N.J. Local Form 13, the attorney for the debtor may submit D.N.J. Local Forms 13 and 14. Such applications shall be served on the Chapter 13 trustee and the debtor.
- (3) Any other supplemental applications shall be filed in accordance with section (a) of this rule and shall be served on the Chapter 13 trustee and the debtor. If the supplemental application is for an amount in excess of \$1,000.00, the clerk shall issue notice of hearing as required by Fed. R. Bankr. P. 2002(a)(6) for a date on which chapter 13 cases are heard.
- (4) Supplemental fee applications shall be submitted not more than once every 120 days.
- (5) A real estate broker or debtor's real estate attorney duly retained pursuant to D.N.J. LBR 2014-1 and whose fees are approved in an order authorizing debtor to sell real property and pay certain professionals' fees upon closing, pursuant to D.N.J. LBR 6004-1(b) is exempt from the requirements of this rule.

1997 Comment: Subparts (a) and (b), and (d) through (h) are former Local Rule 8(a) through (g); subpart (c) is former Local Rule 7(c); subpart (i) is the former Local Rule 25(c); subpart (j) is former Local Rule 33.

2001 Comment: Subpart (j) amended March 8, 2001; amendments include increasing the fee dollar amount from \$1,500.00 to \$2,000.00 and the addition of paragraphs (2), (3) and (4).

2004 Comment: Subsection (i) is amended to add reference to the Court's *General Order Adopting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals* which was implemented on March 31, 2003, and posted to the Court's website, as one of four General Orders comprising the Court's Chapter 11 Initiative. The General Orders and related Guidelines governing Chapter 11 practice in this District are referenced at [D.N.J. LBR 3016-1\(e\)](#).

Subsection (j)(5) is added for Chapter 13 cases, exempting from the requirements of this Local Rule, a real estate broker or debtor's real estate attorney duly retained pursuant to D.N.J. LBR 2014-1 and whose fees are approved in an order authorizing debtor to sell real property and pay certain professionals fees at closing, pursuant to [D.N.J. LBR 6004-1\(b\)](#).

Reference: 11 U.S.C. § 327 Employment of professional persons; 11 U.S.C. § 328 Limitation on compensation of professional persons; 11 U.S.C. § 330 Compensation of officers; 11 U.S.C. § 504 Sharing of compensation; Fed. R. Bankr. P. 2013 Public Record of Compensation Awarded to Trustees, Examiners, and Professionals; Fed. R. Bankr. P. 2014 Employment of Professional Persons; [D.N.J. LBR 2014-1, 2016-1, 6004-1, 6005-1](#).

D.N.J. LBR 2090-1 ATTORNEYS - ADMISSION TO PRACTICE

- (a) The bar of this Court shall consist of any attorney admitted to practice before the United States District Court for the District of New Jersey.
- (b) Attorneys may seek admission pro hac vice by application on 5 days notice to the debtor, any committee, the United States Trustee, and any other party as the Court may direct.

1997 Comment: Formerly Local Rule 10, as amended.

Reference: [**D.N.J. L. Civ. R. 101.1**](#) Admission of Attorneys.

**D.N.J. LBR 3003-1 FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN
CHAPTER 11 REORGANIZATION CASES**

- (a) A proof of claim or interest required under Fed. R. Bankr. P. 3003(c)(2) shall be filed within 90 days after the first date set for the meeting of creditors called pursuant to § 341(a) of the Code.
- (b) A proof of claim arising from rejection of executory contracts or unexpired leases shall be filed within the later of:
 - (1) 30 days after the date of rejection; or
 - (2) 90 days after the first date set for the meeting of creditors called pursuant to § 341(a).

1997 Comment: Formerly Local Rule 26.

Reference: 11 U.S.C. § 365 Executory contracts and unexpired leases; 11 U.S.C. § 501 Filing of proofs of claim or interests; Fed. R. Bankr. P. 3001 Proof of Claim; Fed. R. Bankr. P. 3002 Filing Proof of Claim or Interest.

D.N.J. LBR 3007-1 CLAIMS - OBJECTIONS

- (a) All motions with respect to chapter 11 claims shall be filed within 60 days after confirmation.
- (b) All motions with respect to chapter 13 claims shall be filed within 60 days after the later of confirmation of the plan or the filing of the claim or amended claim.

1997 Comment: Subpart (a) was formerly Local Rule 24(c); subpart (b) was formerly Local Rule 32.

Reference: 11 U.S.C. § 502(b) Allowance of claims or interests; Fed. R. Bankr. P. 3008 Reconsideration of Claims.

D.N.J. LBR 3011-1 UNCLAIMED FUNDS

(a) Unclaimed distributions shall be deposited into the Registry without court order. The deposit shall be accompanied by a list of the payees and the amounts. All other deposits and all withdrawals shall require court order. Such orders shall specify the amount deposited or withdrawn and shall state the name, address and tax identification number of any entity to which funds are paid.

(b) Unclaimed funds deposited into the Registry may be withdrawn by a motion to recover unclaimed funds brought before the judge before whom the case is pending or, if the case has been closed, the chief judge in accordance with this rule.

(1) The motion must be brought by:

(A) an attorney at law admitted to practice before the United States District Court for the District of New Jersey or admitted *pro hac vice* in accordance with the provisions of Local Civil Rule 101.1 of the District Court for the District of New Jersey;

(B) the claimant or its legal successor; or

(C) the assignee of the claimant or its legal successor.

(2) The notice of motion shall include:

(A) a certification setting forth the reason for the application, including an explanation of the reason the funds were not collected originally;

(B) proof of the right to the original payment;

(C) identification of the claimant by: social security number, employer's tax identification number, certification of the claimant's authority, or similar proof; and

(D) proof of any name change or succession to any right to receive funds.

(3) Service of the notice of motion shall be upon the original claimant, any assignee thereof, the trustee in a pending case or, if known, the trustee at the time the case was closed or, if same not be known, the United States Trustee; service shall be by certified mail, return receipt requested.

(4) Appearance shall be necessary on the return date of the motion unless the applicant is the original entity entitled to the funds and no objection has been filed.

(5) All remittances shall be made payable to the claimant or the claimant and an attorney at law admitted to practice before this court.

1997 Comment: Subpart (a) was formerly the entire text of D.N.J. LBR 3011-1.

1998 Comment: Subpart (b) is new.

Reference: [**D.N.J. LBR 7067-1.**](#)

D.N.J. LBR 3015-1 CHAPTER 13 PLAN

- (a) The Debtor shall file a Chapter 13 Plan on **Local Form 8**.
- (b) Only motions to avoid judicial liens under 11 U.S.C. § 522(f) and to avoid liens and reclassify claims in whole or in part may be filed within the plan. If the Plan proposed contains such motions, the Debtor must, within twenty days of the date of entry on the docket of the Notice of Hearing on Confirmation of Plan, serve each potentially affected creditor with a copy of the Plan and Chapter 13 Plan Transmittal Letter that conforms with **Local Form 22** . The Debtor shall file a Proof of Service of compliance with this section at least seven days prior to the scheduled Confirmation Hearing. The Plan and transmittal letter shall be served in the manner provided for service by Fed. Rule Bankr. Proc. 9014.

1997 Comment: Formerly Local Rule 30.

2003 Comment: This rule is amended to implement the use of Local Form 8 - Chapter 13 Plan and Motions and Local Form 22 - Chapter 13 Plan Transmittal Letter.

Reference: 11 U.S.C. § 1321 Filing of plan; 11 U.S.C. § 1322 Contents of plan; **D.N.J. LBR 3015-2**.

D.N.J. LBR 3015-2 CHAPTER 13 AMENDMENTS TO PLAN

- (a) A modification of a plan filed before confirmation which does not adversely affect creditors will be considered by the Court at the confirmation hearing scheduled for the original plan, if the modification is filed and served on the chapter 13 trustee at least 3 days before the confirmation hearing.
- (b) A modification of a plan which adversely affects creditors requires notice pursuant to Fed. R. Bankr. P. 2002(b).
- (c) If a plan is modified, the entire plan shall be refiled and shall indicate in its title which modified plan is being filed, such as "First Modified Plan."

1997 Comment: Formerly Local Rule 31.

Reference: 11 U.S.C. § 1323 Modification of plan before confirmation; 11 U.S.C. § 1324 Confirmation hearing; **D.N.J. LBR 3015-1**.

D.N.J. LBR 3015-3 CHAPTER 13 CONFIRMATION

The attorney for a debtor, or a pro se debtor, shall appear at the confirmation hearing. The debtor is not required to appear if represented by an attorney.

1997 Comment: Formerly Local Rule 35.

Reference: 11 U.S.C. § 1324 Confirmation hearing; 11 U.S.C. § 1325 Confirmation of plan.

D.N.J. LBR 3015-6 OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN

An objection to confirmation of the plan shall be filed with the court and served upon the debtor, debtor's attorney, the chapter 13 trustee, and any other party in interest at least seven (7) days prior to the confirmation hearing date set in the *Notice of Hearing on Confirmation of Plan* or *Notice of Modification of Chapter 13 Plan*, whichever occurs later.

2001 Comment: This rule is new; it sets forth the time within which objections to confirmation of the chapter 13 plan must be filed and served.

2003 Comment: This rule is amended to eliminate reference the Chapter 13 Summary of Plan.

D.N.J. LBR 3016-1 CHAPTER 11 PLAN

- (a) A plan proponent shall review all claims prior to filing a plan.
- (b) *Effective Date.* Unless a plan provides otherwise, its effective date shall be the date on which the order of confirmation becomes final.
- (c) *Format of Plan.* In addition to the requirements of § 1123 of the Code, a plan shall contain:
 - (1) A title indicating whether the plan is one of reorganization or liquidation.
 - (2) A table of contents.
 - (3) Definitions.
 - (4) Clearly numbered articles or sections.
 - (5) A signature of the proponent and the date thereof.
- (d) *Modification of Plan.* If a chapter 11 plan is modified, the entire modified plan shall be refiled and shall indicate in its title its relationship to the original plan and any previous modification, such as “First Modified Plan of Reorganization.”
- (e) Pursuant to D.N.J. LBR 1001–1(c), the Court has issued the following General Orders and related Guidelines governing the Chapter 11 practice in this District:
 - (1) *General Order Governing Procedures For Complex Chapter 11 Cases;*
 - (2) *General Order Adopting Guidelines Governing First Day Matters;*
 - (3) *General Order Adopting Guidelines Governing Procedures For Payment of Interim Compensation and Reimbursement of Expenses To Professionals;*
 - (4) *General Order Adopting Guidelines For Financing Requests*

Copies of the General Orders and related Guidelines may be obtained from the Clerk through the Court’s website: www.njb.uscourts.gov.

1997 Comment: Formerly Local Rule 20.

2004 Comment: Subsection (e) is added to formally reference within the Court’s Local Rules, the four General Orders and related Guidelines comprising the **Chapter 11 Initiative** implemented by the Court on March 31, 2003.

Reference: 11 U.S.C. § 1128 Confirmation hearing; **D.N.J. LBR 1001-1, 3016-2, 3018-2.**

D.N.J. LBR 3016-2 DISCLOSURE STATEMENT - GENERAL

- (a) A plan proponent shall review all claims prior to filing a disclosure statement.
- (b) A disclosure statement shall state the number and amount of claims of each class to which the proponent intends to object.
- (c) If a chapter 11 disclosure statement is modified, the entire modified disclosure statement shall be refiled and shall indicate in its title its relationship to the original disclosure statement and any previous modification, such as "First Modified Disclosure Statement."

1997 Comment: Subparts (a) and (b) formerly Local Rule 24(a) and (b). Subpart (c) formerly Local Rule 21. Former Local Rule 24(c) has been renumbered under **D.N.J. LBR 3007-1**.

Reference: 11 U.S.C. § 1125 Postpetition disclosure and solicitation; Fed. R. Bankr. P. 3019 Modification of Accepted Plan Before Confirmation in a Chapter 9 Municipality or a Chapter 11 Reorganization Case; **D.N.J. LBR 3016-1**.

D.N.J. LBR 3018-2 ACCEPTANCE/REJECTION OF PLANS

Unless the Court directs otherwise, ballots shall be filed with the attorney for the plan proponent. At or before the chapter 11 confirmation hearing, the plan proponent shall file a certification of balloting, under penalty of perjury, summarizing both the numbers and amounts of acceptances and rejections in each class, and certifying to their timely filing. The ballots shall be retained by the party completing the certification for a period of two years from the time of closing of the case. A copy of the certification shall be served on the debtor, debtor in possession, trustee, if any, United States trustee and any committee appointed pursuant to the Code, any party having filed a notice of appearance in the case, and such other persons as the Court may direct.

1997 Comment: Formerly Local Rule 22.

2004 Comment: This rule is amended as a result of the Court's transition to Case Management/Electronic Case Filing (CM/ECF). This amendment requires that unless the Court directs otherwise, ballots are to be filed with the attorney for the plan proponent. At or before the chapter 11 confirmation hearing, the certification of balloting is then filed with the court, under penalty of perjury, by the party with whom ballots have been filed. The party filing the certification, must certify to both the numbers and amounts of acceptances and rejections in each class, as well as to the timely filing of same. The ballots are to be retained by the party with whom they have been filed, for a period of two years from the date of case closing, and need not be filed with the Court. This amendment also conforms with the requirements of **Official Form 14** (Ballot for Accepting or Rejecting Plan) which allows for mailing of the ballot to the attorney for the plan proponent.

Reference: 11 U.S.C. § 1126 Acceptance of plan.

D.N.J. LBR 3021-1 DISTRIBUTION - UNDER PLAN (Ch. 11)

- (a) If a plan provides for distribution of property but does not designate a disbursing agent, the Court may designate a disbursing agent. The terms of any compensation to a disbursing agent shall be set forth in the plan or the order of the Court that directs the appointment of the disbursing agent.
- (b) The disbursing agent shall maintain funds for distribution to creditors and equity holders in a special account established for the exclusive purpose of making such distribution and shall make disbursements from such account only by check imprinted with the case name and the disbursing agent's name.
- (c) If the plan requires the disbursing agent to maintain funds for more than 30 days, those funds shall be held in interest-bearing accounts or certificates, and interest earned shall inure to the benefit of creditors and equity holders, unless otherwise directed by the Court.
- (d) Within 60 days after the initial distribution under any plan, the disbursing agent shall file and serve on the debtor, the plan proponent if other than the debtor, any official committee, and other parties as the Court may direct, a report of initial distribution utilizing **Local Form 7**. The disbursing agent shall serve reports of any subsequent distributions on the parties named above. These subsequent reports shall not be filed.
- (e) Unless the plan provides otherwise, the time period for return of unclaimed security, money, or other property in accordance with ' 347(b) of the Code shall be 90 days from the date of distribution.

1997 Comment: Formerly Local Rule 23.

Reference: 11 U.S.C. § 1123 Contents of plan; Fed. R. Bankr. P. 3020(a) Deposit; Confirmation of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case.

D.N.J. LBR 3022-1 FINAL REPORT/DECREE (Ch. 11)

- (a) The clerk shall close a chapter 11 case 180 days after entry of a final order confirming a plan.
- (b) On motion of a party in interest filed and served within the time period set forth in subsection (a) above, the Court may for cause extend the time for closing the case.

1997 Comment: Formerly Local Rule 25(a) and (b).

Reference: 11 U.S.C. § 350 Closing and reopening cases.

D.N.J. LBR 4001-1 AUTOMATIC STAY - RELIEF FROM

- (a) Court appearances are required on all motions relating to the automatic stay in chapter 13 cases.
- (b) In addition to the requirements of **D.N.J. LBR 9013-1** through **9013-3**, every motion for relief from the automatic stay shall be accompanied by a certification or affidavit and supporting exhibits which shall contain the following:
 - (1) Copies of all documents upon which the movant will rely at the time of the hearing including, where applicable, all notes, bonds, recorded mortgages with the stamped dates of recordation, security agreements, filed financing statements with the stamped dates of filing, and assignments.
 - (2) Where applicable, a statement of amount due, including a breakdown of the following categories:
 - (A) Unpaid principal.
 - (B) Accrued interest from a specific date.
 - (C) Late charges from a specific date to a specific date.
 - (D) Attorneys' fees.
 - (E) Advances for taxes, insurance and the like.
 - (F) Unearned interest.
 - (G) Per diem interest.
 - (H) Any other charges.
 - (I) Total post-petition arrearages.
 - (J) Date of last payment.
 - (3) In all cases in which the relief sought is dependent upon the creditor proving the amount secured by a mortgage on real estate owned by the debtor, the movant shall attach to the certification in support of its notice of motion **Local Form No. 15** ("Calculation of Amounts Due"). In chapter 13 cases in which the relief sought is based upon a mortgagee's claim that the debtor has failed to make all post-petition payments due under the terms of the mortgage in issue, the movant shall attach to its certification in support of its notice of motion **Local Form No.16** ("Post-Petition Payment History").
- (c) Any appraisals shall be filed and served with the moving and answering papers.
- (d) Failure to oppose a request for adjournment of a hearing on a motion for relief from the automatic stay shall be deemed to be consent to continuation of the automatic stay until the new hearing date without a Court order under § 362(e) of the Code.

- (e) Notwithstanding **D.N.J. LBR 9013-1(j)(1)**, a consent order in lieu of a motion under Code § 362(d) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 5 days to file and serve an objection. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code § 362(d).

1997 Comment: Subparts (a) through (d) (except (b)(3)) are former Local Rule 3 (i) (1)-(4). Subpart (e) is new and is derived from former Local Rule 3(k)(2).

2000 Comment: Subpart (b)(3) added.

Reference: 11 U.S.C. § 361 Adequate Protection.

D.N.J. 5005-1 FILING AND TRANSMITTAL OF PAPERS

Electronic filing is authorized subject to general orders and administrative procedures as issued by the Court. In cases in which electronic filing is utilized, documents shall be filed, signed, or verified by means that are consistent with any general orders issued by the Court.

2001 Comment: This Rule is new and provides the general authority for electronic filing as authorized under Fed. R. Bankr. P. 5005(a)(2).

Reference: Fed. R. Bankr. P. 5005(2)(a).

D.N.J. LBR 5005-2 FILING PAPERS - NUMBER OF COPIES

An original and one copy of the petition, statement of financial affairs and schedules are required for filing in hard copy in cases under Chapters 7, 9, 11, 12 and 13.

Only the originally filed petition, statement of financial affairs and schedules are required for filing electronically in cases under Chapter 7, 9, 11, 12 and 13.

1997 Comment: Formerly Local Rule 2(b)(3).

2003 Comment: This rule is amended to recognize the reduced number of copies of petitions, statements of financial affairs and schedules required due to the implementation of the Court's Electronic Case Filing System (ECF).

D.N.J. LBR 5005-3 FILING PAPERS - SIZE OF PAPERS

All petitions, pleadings, schedules and other papers shall be of standard letter size (8-1/2 x 11 inches).

1997 Comment: Formerly part of Local Rule 2(a)(1).

D.N.J. LBR 5011-1 WITHDRAWAL OF REFERENCE

A motion for withdrawal of the reference of a case or proceeding shall be filed in the bankruptcy court in the form and manner prescribed by Local Civil Rules 5.1, 7.1, 10.1, 11.1 and 78.1 of the District Court Rules. All such motions are then to be immediately transmitted to the district court.

1997 Comment: Formerly Local Rule 14.

Reference: 28 U.S.C. § 157 Procedures; Fed. R. Bankr. P. 5005(c) Filing and Transmittal of Papers.

D.N.J. LBR 5071-1 CONTINUANCE

- (a) An adjournment request shall be made no later than 3 days before the hearing date. Before requesting an adjournment, the requesting party shall attempt to obtain the consent of the other parties and inform the Court of their position, including the reasons for any opposition.
- (b) If a request cannot be presented to the Court within the time period provided in (a), the parties shall appear on the hearing date. The adjournment request will be considered at that time.

1997 Comment: Formerly Local Rule 11.

Reference: Fed. R. Bankr. P. 9006(a) Time.

D.N.J. LBR 6004-1 SALE OF ESTATE PROPERTY

- (a) The trustee, debtor in possession, or an authorized representative shall attend and monitor the bidding process at all auctions of estate property.
- (b) In a Chapter 13 case, an Information for Notice of Private Sale of Real Property may include a request to pay at closing, the fees or commissions of a duly retained real estate broker or debtor's real estate attorney.

2004 Comment: Subsection (b) is added in conjunction with the 2004 amendment to **D.N.J. LBR 2016-1(j)(5)** which allows, exclusively in a Chapter 13 case, a real estate broker or debtor's real estate attorney retained pursuant to **D.N.J. LBR 2014-1**, to include a request for reasonable fees to be paid upon closing, in the debtor's Information for Notice of Private Sale. The notice of private sale pursuant to Fed. R. Bankr.P. 2002(a) will include the requested real estate broker's commission as a percentage of the sale price, and/or the debtor's real estate attorney's fee, as well as the date of the respective orders of appointment. A request for approval of a section 363(f) sale requires the filing of a motion (Fed. R. Bankr.P. 6004(a)), in addition to the Information for Notice of Private Sale (2002(a)). Moreover, where debtor's counsel seeks entry of an order authorizing debtor to sell real property and pay certain professionals at closing, a motion will accompany the filing of the Information for Notice of Private Sale. The Court retains its discretion, on a case by case basis, to require the filing of an application for fees and expenses pursuant to **D.N.J. LBR 2016-1**, setting forth a statement of services rendered and itemization of expenses incurred by the real estate broker or debtor's closing attorney.

D.N.J. LBR 6005-1 APPRAISERS & AUCTIONEERS

- (a) No auctioneer shall be directly or indirectly interested in the sale or purchase of any of the assets or property of the estate being administered.
- (b) In all sales at public auction the personal property shall first be offered in bulk. After the bidding in bulk is completed, the property shall be offered for sale in lots set forth in the original lotting and selling sheets. Copies of lotting and selling sheets shall be available for prospective purchasers the day of the sale.
- (c) Upon completion of the sale, the auctioneer shall deliver to the trustee or debtor in possession all cash or its equivalent received from the sale and the original selling or lotting sheets. The auctioneer shall be liable for the collection and payment of the proceeds of sale. The original selling sheets shall contain an itemized statement of the property offered for sale, the names and addresses of the bulk bidders and the amounts of the bids, the name and address of the highest bidder for each lot, the price bid or received for each lot and the total amount bid or received for all lots.
- (d) No property shall be delivered to the successful bidder until payment of the balance of the bid price. All funds collected by the auctioneer on the date of delivery shall be promptly remitted to the trustee or debtor in possession, together with a list setting forth the amount of each payment and from whom such payment was received.
- (e) A successful bidder shall deposit with the auctioneer the required percentage deposit as announced before the sale. All deposits and final payments shall be made in cash, certified check or bank check. The terms of sale shall be announced by the trustee or auctioneer before the sale. All advertisements shall specify the conditions, including the monetary terms of the sale.

1997 Comment: Formerly Local Rule 7(d), (e), (g), (h), and (i).

Reference: [**D.N.J. LBR 2016-1, 6004-1.**](#)

D.N.J. LBR 6007-1 ABANDONMENT

A trustee or debtor in possession seeking approval to abandon property of the estate may file a Notice of Intent to Abandon on **Local Form No. 5 or 6**. The clerk shall send notice in accordance with Fed. R. Bankr. P. 6007 of the proposed abandonment.

1997 Comment: Formerly Local Rule 15.

Reference: 11 U.S.C. § 554 Abandonment of property of the estate.

D.N.J. LBR 7001-1 ADVERSARY PROCEEDINGS - GENERAL

A party or attorney filing a complaint or third party complaint shall prepare a summons and notice of pretrial conference conforming to **Form B250B** of the Director of the Administrative Office as authorized by Fed. R. Bankr. P. 9009 and shall deliver the complaint and summons to the clerk for the issuance of the summons and notice of pretrial conference.

1997 Comment: Formerly Local Rule 2(e)(1).

Reference: Fed. R. Civ. P. 4 Summons; Fed. R. Civ. P. 16 Pretrial Conferences, Scheduling, Management; Fed. R. Bankr. P. 7004 Process, Service of Summons, Complaint; Fed. R. Bankr. P. 7016 Pretrial Procedure; Formulating Issues.

D.N.J. LBR 7003-1 COVER SHEET

Each complaint shall have attached an official bankruptcy cover sheet, **Form B-104**, which shall be provided by the clerk on request.

1997 Comment: Formerly Local Rule 2(e)(2).

**D.N.J. LBR 7005-1 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS -
ELECTRONIC CASE FILING SYSTEM**

- (a) Participants in the Court's electronic case filing system (ECF), by accepting a login and password from the Court, waive their right to service by personal service or first class mail and agree to electronic service, except with regard to service of process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004 and the initiating motion in a contested matter under Fed. R. Bankr. P. 9014.
- (b) A party may make service upon a Participant in the Court's electronic case filing system under Fed. R. Civ. P. 5(b)(2)(D) made applicable to bankruptcy cases pursuant to Fed. R. Bankr. P. 7005, through the Notice of Electronic Filing automatically generated by the Court's transmission facilities.

2003 Comment: The December 2001 amendment to Fed. R. Civ. P. 5(b)(2)(D) requires the promulgation of a local rule if a court wants to authorize parties to use its transmission facilities to make electronic service. Express written consent to electronic service through the Court's transmission facilities as further required by Fed. R. Civ. P. 5(b)(2)(D) is provided by the Participant's signature on the Court's ECF registration form.

D.N.J. LBR 7026-1 DISCOVERY- GENERAL

The provisions of Local Civil Rules 26.1 and 37.1 of the District Court Rules may be applied in adversary proceedings in the discretion of the Court.

1997 Comment: Formerly Local Rule 5.

D.N.J. LBR 7055-1 ENTRY OF DEFAULT AND DEFAULT JUDGMENT

(a) *Entry of Default* - To obtain entry of default pursuant to Fed. R. Civ. P. 55(a), the party moving for entry of default shall file with the Clerk of the Court an application requesting entry of default, together with a supporting affidavit listing all defaulting parties and alleging the following:

- (1) The party against whom default is sought has been properly served with a summons and a complaint.
- (2) The party has failed to plead or otherwise defend within the allowed time and that time has run.
- (3) The party has not requested or has not been granted an extension of time to plead or otherwise defend.

(b) *Entry of Default Judgment* - In addition to the filing of an application requesting entry of default, along with supporting affidavit, the party seeking the entry of a default judgment shall file with the Clerk of the Court an application for default judgment containing the following:

- (1) A request to enter default judgment.
- (2) An affidavit in support of default judgment, executed by an individual having personal knowledge of the facts set forth therein, which sets forth with specificity each element of at least one cause of action asserted in the initial pleading. The supporting affidavit must comply with 50 App. U.S.C. § 520 regarding defendant's military status. The affidavit must also allege that the defendant is not an infant or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared in the action.
- (3) Appropriate documentary evidence to support the allegations in the affidavit.
- (4) A proposed form of judgment.

(c) *Notice* - Notice shall be served in accordance with Fed. R. Civ. P. 55(b)(2).

(d) *Proof Hearing* - Chambers shall advise the party seeking entry of a default judgment of the time and date of a proof hearing, if required.

1999 Comment: This new Rule is intended to amplify and clarify the procedures to obtain the entry of default and default judgment pursuant to Fed. R. Civ. P. 55(a) and (b), respectively, made applicable to adversary proceedings pursuant to Fed. R. Bankr. P. 7055. Compliance with this new Rule should ease the burdens on both Chambers and the Clerk's office by reducing the number of nonconforming pleadings which must be returned to counsel with remedial instructions.

Subdivisions (a) and (b) detail the content of the pleadings and supporting documentation required to obtain the entry of default and a default judgment.

Subdivision (d) is intended to clarify that a default judgment may be entered upon the submission of pleadings and supporting documentation conforming to the provisions of the Rule, without a proof hearing, unless the Court notifies counsel that a proof hearing is required.

References: Fed. R. Bankr. P. 7054 Judgment; Costs.

Fed. R. Bankr. P. 7055 Default.

50 App. U.S.C. § 520. Default Judgments; Affidavits; Bonds; Attorneys For Persons in Service.

D.N.J. LBR 7067-1 REGISTRY FUND

- (a) Registry funds maintained pursuant to 28 U.S.C. § 2041 shall include, but shall not be limited to:
 - (1) Unclaimed distributions in chapter 7, 12 or 13 cases remaining unpaid 90 days after the final distribution.
 - (2) Monies to be held in escrow pending resolution of a particular dispute before the Court.
- (b) Unclaimed distributions shall be deposited into the Registry without court order. The deposit shall be accompanied by a list of the payees and the amounts. All other deposits and all withdrawals shall require court order. Such orders shall specify the amount deposited or withdrawn and shall state the name, address and tax identification number of any entity to which funds are paid.
- (c) An order requiring the deposit of funds shall be served personally by the movant upon the clerk, chief deputy clerk, deputy-in-charge, or chief financial deputy. The movant shall also verify that the clerk has deposited the funds.
- (d) In accordance with 28 U.S.C. § 1930(b) and 56 F.R. 56356, the Clerk shall collect a fee of 10% of all income earned on funds in the Registry when the funds total less than \$100,000,000. On amounts exceeding \$100,000,000, the 10% fee shall be reduced by one percent for each increment of \$50,000,000 over the initial \$100,000,000. The fee will be collected in pro rata amounts prior to ordered disbursements. The amount collected at any such time shall be 10% of that proportion of total accrued interest which equals the claimant's proportion of principal in the account.

1997 Comment: Formerly Local Rule 12.

Reference: 11 U.S.C. § 347(a) Unclaimed property; Fed. R. Bankr. P. 3011 Unclaimed Funds in a Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt, and Chapter 13 Individual's Debt Adjustment Cases.

D.N.J. LBR 8006-1 DESIGNATION OF RECORD - APPEAL

If an appellant fails to timely file the designation and statement required by Fed. R. Bankr. P. 8006, the clerk shall file a certification of such failure with the clerk of the District Court and serve same upon all parties to the appeal.

1997 Comment: Formerly Local Rule 13.

Reference: Fed. R. App. P. 16 Appeal in Bankruptcy Case from a Final Judgment, Order or Decree of a District Court or a Bankruptcy Appellate Panel; Fed. R. Bankr. P. 8007 Completion and Transmittal of Record; Docketing of the Appeal.

D.N.J. LBR 9004-1 PAPERS - REQUIREMENTS OF FORM

All petitions, pleadings, schedules and other documents filed in paper form, shall be legibly typewritten, printed or reproduced. The papers shall be of standard weight and shall have an upper margin of not less than 1-1/2 inches. No such document may be stapled or similarly fastened so as to cause punctures in the paper.

1997 Comment: Formerly Local Rule 2(a)(1).

2001 Comment: This Rule amendment is intended to facilitate the imaging process when utilized in conjunction with the electronic case filing system.

D.N.J. LBR 9004-2 CAPTION - PAPERS, GENERAL

- (a) All papers, including motions, complaints, orders, judgments, letters, and briefs shall set forth a caption, and the title shall include a specific reference to the subject of the paper and shall state the hearing date as follows: "Hearing Date: _____, 20__."
- (b) All papers shall set forth the case number, chapter, initials of judge assigned and, when applicable, the adversary proceeding number. In the case of motions, the notice of motion and any answering papers shall state below the hearing date either "oral argument requested" or "oral argument waived."
- (c) All pleadings commencing with the original petition shall contain in the top left margin the typewritten or printed name, address, telephone number, the initials of the first and last names and the last 4 digits of the social security number of the attorney of record for the filing party, and the identity of the party represented, or, if a party is appearing pro se, the typewritten or printed name, address and telephone number of such party.

1997 Comment: Formerly Local Rule 2(a)(2), (3), and (4).

2001 Comment: This Rule amendment substitutes reference to the year "20__" for the year "19__."

D.N.J. LBR 9013-1 MOTION PRACTICE

- (a) *General Provisions.* An application to the Court for an order requiring notice and opportunity for hearing shall be by motion. Every motion shall state the time and place returnable, the grounds upon which it is made, and the nature of the relief sought. A motion shall be deemed uncontested unless responsive papers are timely filed in accordance with subdivision (d). A proposed form of order shall accompany the moving papers, except as provided in **D.N.J. LBR 9072-1(b)**.
- (b) *Scheduling.* An application by motion except in a chapter 13 case shall be made returnable on a regular motion day before the judge to whom the case has been assigned. The regular motion day shall be Monday for all three vicinages. A motion in a chapter 13 case shall be made returnable on a date assigned by the Court. A motion not timely filed pursuant to subdivision (c) will be scheduled for the next motion day.
- (c) *Time and Place of Filing.* All moving papers shall be filed in the vicinage of the case. Such papers shall be filed and served at least 20 days before the return date, except as provided in Fed. R. Bankr. P. 3007.
- (d) *Responsive Papers; Cross-Motions.* All answering papers and cross-motions shall be filed and served at least 7 days before the return date. All cross-motions shall be deemed contested. No motion shall be designated as a cross-motion unless it is related to the original motion.
- (e) *Orders Shortening Time.* An application under Fed. R. Bankr. P. 9006(c) for an order shortening time for hearing on a motion shall be submitted with the moving papers in a form substantially the same as Local Forms 1 and 2. Use of orders to show cause shall be limited to adversary proceedings in accordance with **D.N.J. LBR 9075-1**.
- (f) *Oral Argument.* Unless a party requests oral argument or the Court otherwise directs, all motions shall be decided on the papers. All parties must state their intentions regarding oral argument in the moving or answering papers.
- (g) *Telephone Conference.* The Court, on its own motion or on a party's request, may direct argument of any motion by telephone conference without Court appearance. A verbatim record shall be made of all such telephone arguments.
- (h) *Motion for Reconsideration.* A motion for reconsideration shall be filed within 10 days of the entry of the Court's order or judgment on the original motion. The motion shall be filed with a memorandum setting forth concisely the matters or controlling decisions which the movant believes constitute cause for reconsideration. A timely motion for reconsideration shall be deemed to be a motion under Fed. R. Bankr. P. 8002(b).
- (i) *Testimony.* Unless the Court authorizes or directs otherwise prior to the return date, no testimony shall be taken on a motion except by certification or affidavit under Fed. R. Civ. P. 43(e) and Fed. R. Bankr. P. 9017. Notwithstanding the foregoing, live testimony may be taken on a motion under Code § 363(c) or § 364 without prior authorization from the Court.

(j) *Consent Order in Lieu of Motion.*

- (1) Requests to the Court for an order on which all parties who are entitled to notice have affixed their written consent may be presented by application without motion or hearing. The application shall explain the grounds for entry of the order.
 - (2) Notwithstanding subsection (j) (1) of this rule, a consent order in lieu of a motion under Code § 363(e) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 5 days to serve an objection. The proponent of the consent order must simultaneously submit a separate certification of service to the Court indicating service on the 20 largest unsecured creditors. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code § 363(e).
- (k) *Duty to Confer.* If a motion is contested, the movant shall confer with the respondent prior to the hearing to determine whether a consent order may be entered disposing of the motion, or, in the alternative, to stipulate the resolution of as many issues as possible.
- (l) *Duty to Report Settlement or Withdrawal.* If a motion is settled or withdrawn, the movant shall inform the Court immediately by telephone, and send written confirmation promptly thereafter.
- (m) Any motion seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall specifically state in the caption of the motion whether the movant seeks a waiver of the 10 day stay of the effectiveness of any proposed order for the relief sought under Federal Rules of Bankruptcy Procedure 4001(a)(3), 6004(g) or 6006(d). The movant shall bear the burden of establishing cause for the waiver of the 10 day stay provisions and shall detail the cause in its moving papers.

1997 Comment: Formerly Local Rule 3(a) through (h), and (j) through (m).

1999 Comment: Subsection (h) of this rule was amended. The amendment substituted the word "entry" for the word "filing" in the first sentence to be consistent with the federal rules of civil and bankruptcy procedure.

2004 Comment: Subsection (j)(2) is amended to require that the proponent of the consent order in lieu of motion under Code § 363(e) in a Chapter 11 case, simultaneously submit a separate certification of service to the Court indicating service on the 20 largest unsecured creditors, where the consent order in lieu of motion is filed, without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed, and the 20 largest unsecured creditors have been served with the application and consent order providing 5 days to file and serve an objection.

Reference: Fed. R. Bankr. P. 5005 Filing and Transmittal of Papers; Fed. R. Bankr. P. 9006 Time; Fed. R. Bankr. P. 9014 Contested Matters; Fed. R. Bankr. P. 9001(7) and 9021.

D.N.J. LBR 9013-2 BRIEFS & MEMORANDA OF LAW

All moving papers, answering papers, and cross-motions shall include a brief, or a statement that no brief is necessary and the reasons therefor. The brief shall be a separate document.

1997 Comment: This rule is new and is derived from Local Rule 3(c) and (d).

2001 Comment: This Rule amendment is intended to maintain and clarify the current requirement that a brief is to be a separate document whether submitted electronically or in paper form.

D.N.J. LBR 9013-3 CERTIFICATE OF SERVICE - MOTIONS

- (a) All moving papers, answering papers, and cross motions, including those filed electronically, must be supported by a certificate of service. The certificate of service shall identify the relationship to the case of each party served.
- (b) Where service is accomplished through the Notice of Electronic Filing pursuant to **D.N.J.LBR 7005-1(b)** upon a Participant in the Court's electronic case filing system, the certificate of service must indicate that the document was electronically filed and the manner in which the party was served.
- (c) The certificate of service shall be a separate document.

1997 Comment: This rule is new and is derived from Local Rule 3(c) and (d).

1998 Comment: The second sentence of this rule was added [April 1998]. It is intended to facilitate the court's meaningful review of the certification of service. The service list should identify the name of the party served, the address of the party served, and the party's relationship to the case. For example:

John Doe, Esq.	Jane Doe
123 Main Street	456 Main Street
Anytown, USA 12345	Anytown, USA 12345
Attorney for Secured Creditor,	Unsecured Creditor
Big Bank, N.A.	

2001 Comment: This Rule amendment is intended to clarify that where electronic case filing is utilized, a certificate of service may be filed subsequent to the filing of the moving papers, answering papers, and cross motions.

2004 Comment: This Rule amendment specifies that the Court requires a certificate of service to be filed with respect to documents filed electronically indicating the manner in which the party was served. It also requires the certificate of service to be a separate document, thereby precluding inclusion of the certificate within the pleading.

Reference: Fed. R. Civ. P. 5 Service and Filing of Pleadings and Other Papers; Fed. R. Bankr. P. 7005 Service and Filing of Pleadings and Other Papers.

D.N.J. LBR 9015-1 JURY TRIALS

Where a party to a case or proceeding demands a trial by jury, the party making the demand shall, within 90 days after serving the demand, (i) file with the Clerk of the Bankruptcy Court the consent of all parties to trial by jury in the Bankruptcy Court, (ii) move pursuant to D.N.J. LBR 5011-1 for withdrawal of the reference of the case or proceeding by the District Court, or (iii) move to extend the time. The failure of a party to file or move as required by this rule constitutes a waiver by the party of trial by jury.

D.N.J. LBR 9019-2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

(a) Register of Mediators.

- (1) The clerk shall maintain a register of eligible individuals who wish to serve as mediators.
- (2) An individual may be eligible for appointment to the register upon the filing of an application for appointment to the register demonstrating the qualifications of the individual as mediator and satisfactory completion of such training as may be required from time to time by the Court.
- (3) The register of eligible mediators shall be reviewed and approved by the Court periodically and shall be posted by the clerk in each vicinage.

(b) Compensation of Mediators.

- (1) Mediators shall be compensated at the rate two hundred (\$200) dollars per hour, unless otherwise ordered by the Court.
- (2) In the event that the parties to mediation and the mediator agree on an hourly rate in excess of or less than two hundred dollars (\$200), the order of referral for mediation shall indicate the agreed hourly rate of the mediator, if in the opinion of the Court such rate is reasonable.
- (3) The parties shall share the charges of the mediator equally, unless otherwise provided in the order allowing the mediator's compensation.
- (4) A mediator seeking compensation shall comply with the requirements of **D.N.J. LBR 2016-1(a)**.
- (5) A copy of the mediator's application for compensation shall be served on each party to the mediation.

(c) Referral to Mediation.

- (1) An adversary proceeding or contested matter may be referred to mediation either by joint request of the parties or by the Court at a status conference or other hearing.
- (2) Where the parties consent to mediation, they shall file an application and consent order, as allowed by **D.N.J. LBR 9013-1(j)**, requesting referral to mediation and designating a mutually acceptable mediator and alternate selected from the current register. If the parties are unable to agree on a mediator and alternate, the application shall request selection by the Court from the current register.
- (3) Where mediation is directed by the Court, on its own motion, the parties shall confer and attempt to designate a mutually acceptable mediator and alternate from the current register. If the parties cannot agree, the Court shall appoint a mediator and alternate.

(d) Mediation Procedure.

- (1) *Conflicts.* Within 5 days of receipt of the referral order, the mediator shall determine whether he or she is disqualified. Disqualification shall include, but not be limited to, acting as trustee in the case or in the case of an insider or affiliate of the debtor. If the mediator determines that he or she is disqualified, the mediator shall promptly file a notice of disqualification, serving copies on the parties and the alternate, and the alternate shall become the mediator.

- (2) *Time and Place.* The mediator shall fix a time and place for the mediation conferences which are reasonably convenient for the parties and shall serve written notice of the initial conference at least 15 days before the return date. The conference shall be commenced as early as practicable, and in any event not more than 45 days following the entry of the referral order. Upon consent of all parties, the mediator may adjourn the conference and inform the Court, in writing, of the need for adjournment and the new date(s) .
- (3) *Information Statement.* Each party shall prepare an information statement which shall contain the following:
- (A) A copy of the pleading setting forth the party's cause of action or defense;
 - (B) A list of all witnesses upon which the party would rely at trial, and a summary of their expected testimony;
 - (C) Copies of the principal exhibits upon which the party would rely at trial; and
 - (D) A statement, not exceeding 3 pages, of the principal rules of law upon which the party relies.

Where an exhibit is voluminous, a *summary* may be provided. The submission of a *summary* of expected testimony shall constitute a certification by the attorney that he or she, or other counsel of record for the party, has personally spoken with the witness or has reviewed a written statement of the witness, deposition transcript, or interrogatory answers signed by the witness, and believes in good faith that the witness will testify substantially in conformity with the *summary*.

The information statement shall be served on the mediator and all parties at least 7 calendar days before the initial conference. The information statement shall not be filed, shall not be construed as a pleading, shall not satisfy any discovery obligation, and shall not limit the evidence the parties may use at trial, if mediation does not result in settlement. No responsive or supplemental statements shall be permitted.

- (4) *Attendance by Attorneys.* The attorney with primary responsibility for representation in the proceeding or matter to be mediated shall personally attend the conference(s). Attorneys shall be prepared to discuss in detail and in good faith the following:
- (A) All liability issues;
 - (B) All damages issues; and
 - (C) Authorized parameters for settlement.
- (5) *Attendance by Parties.* An individual party who resides within the vicinage of the case shall personally attend the mediation conference(s) unless excused by the mediator for cause. A party, other than an individual, whose principal place of business is located in the vicinage of the case shall attend the mediation conference(s) through a representative with authority to negotiate. All other parties shall be available for consultation with their attorneys and the mediator by telephone.
- (6) *Caucus.* The mediator shall decide which parties and/or attorneys shall be present, and the nature of any caucus sessions.

- (7) *Failure to Attend.* A party's willful failure to attend the mediation conference(s) shall be reported to the Court by the mediator and may result in the imposition of sanctions by the Court.
 - (8) *Privilege.* All proceedings or writings of the mediation conference, including the information statement, mediator's settlement recommendation, and any statement made by any party, attorney or other participant, shall in all respects be privileged and not reported, recorded, placed in evidence, communicated to the Court or jury, where applicable, or construed for any purpose as an admission against interest.
 - (9) *Settlement Recommendations.* The mediator may, but need not, make oral or written recommendations for settlement. Attorneys shall confer with their parties to review the mediator's recommendations and to determine whether a consent order or stipulation may be entered disposing of the adversary proceeding or contested matter or resolving as many issues as possible.
- (e) **Completion of Mediation.** Upon completion of the mediation conference(s), the mediator shall inform the Court, in writing, whether the parties have reached agreement to settle the adversary proceeding or contested matter. If settlement has been reached, the mediator shall direct the preparation of a consent order or stipulation containing the terms of settlement, which shall be filed.

1997 Comment: Formerly Local Rule 17.

2002 Comment: Subsections (b)(1) and (b)(2) of this rule were amended. The amendments increased the mediators hourly rate of compensation from one hundred and fifty (\$150) to two hundred dollars (\$200) per hour.

D.N.J. LBR 9072-1 ORDERS - PROPOSED

- (a) Any order or judgment must be a separate document. The title of an order or judgment shall identify the nature of the relief granted.
- (b) The Court may approve standard forms of order and judgment pursuant to Fed. R. Bankr. P. 9021. When a decision by the Court is identical to that provided in any such standard form of order or judgment, and includes no additional relief or ruling, the clerk shall prepare, sign and enter an order or judgment on the appropriate form as directed by the Court. Where use of a standard form of order or judgment is required under this subdivision, there shall be no substitution for, or modification or supplementation of such form without the express consent of the Court.
- (c) Except as provided in subdivision (b), if the ruling on a motion or application differs from that reflected in any proposed orders which have been submitted, the prevailing party or applicant shall file and serve a revised form of order within 5 days of the Court's decision. If the prevailing party or applicant fails to do so, any other party may file and serve such form of order.
- (d) If all parties consent to the form of an order submitted under subdivision (c), the correspondence transmitting such order shall so state in bold face or upper case type, and such order shall be signed and entered in the discretion of the court. In all other cases under subdivision (c), all parties served with such order shall have 5 days to file and serve an objection and alternative form of order. A hearing may be conducted on the objection in the Court's discretion.
- (e) Any proposed order seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall not include a waiver of the 10 day stay provisions provided in Federal Rules of Bankruptcy Procedure 4001(a)(3), 6004(g) or 6006(d) unless cause for relief from the stay is specifically plead in the moving papers. The caption of the proposed order must state the order waives the 10 day stay provisions contained in the applicable Federal Rule.

1997 Comment: Formerly Local Rule 4.

2001 Comment: This Rule amendment substitutes the phrase "shall be signed and entered in the discretion of the court" for the phrase "shall be signed and entered forthwith."

Reference: [**D.N.J. LBR 4001-1\(d\)**](#) Automatic Stay - Relief From; Fed. R. Bankr. P. 9022 Notice of Judgment or Order.

D.N.J. LBR 9072 -2 ORDERS PROPOSED - ELECTRONIC CASE FILING SYSTEM

- (a) Orders submitted under **D.N.J. LBR 9072-1(c)** shall be directed to the presiding judge's electronic mail box designated for this purpose. The address box of the electronic mail shall reflect the names of the parties served. If any party is not served electronically, the filer must serve a copy of the order on that party conventionally and indicate such service in the electronic correspondence directed to the presiding judge's electronic mail box.
- (b) Pursuant to the requirements of **D.N.J. LBR 9072-1(d)**, if all parties consent to the form of an order submitted electronically, the electronic correspondence transmitting such order shall so state in bold face or upper case type, and such order shall be signed and entered in the discretion of the court. In all other cases under subdivision (a), all parties served with such order shall have 5 days to submit and serve an objection and alternative form of order to the presiding judge's electronic mail box. A hearing may be conducted on the objection in the Court's discretion.

2001 Comment: This Rule is new and is intended to provide a procedure for orders submitted by electronic means under **D.N.J. LBR 9072-1(c)**.

D.N.J. LBR 9075-1 EMERGENCY ORDERS

Use of orders to show cause shall be limited to adversary proceedings in which immediate injunctive relief is requested.

1997 Comment: Formerly part of Local Rule 3(e).

Reference: Fed. R. Bankr. P. 7001 Scope of Rules of Part VII.

APPENDIX

APPENDIX I	CHRONOLOGY TABLE	55
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CHRONOLOGY TABLE

DATE	COMMENT
April 15, 1997	Rules amended and renumbered.
April, 1998	Rules 3011-1 and 9013-3 amended.
January, 1999	Rules 7055-1 added and 9013-1(h) amended.
January, 2000	Rule 4001-1(b)(3) amended.
March 8, 2001	Rule 3015-6 added and Rule 2016-1(j) amended.
May 30, 2001	Rules 5005-1 and 9072-2 added; Rules 1001-1, 1007-2, 9004-1, 9004-2, 9013-2, 9013-3 and 9072-1 amended.
June 28, 2002	Rule 1073-1 amended.
September 18, 2002	Rules 2004-1 and 9019-2 amended.
January 2, 2003	Rule 9015-1 added
May 12, 2003	Rules 3015-1 and 3015-6 amended
July 2, 2003	Rules 1002-1, 1007-2, 1009-1, 1019-1, 2016-1, 3016-1, 3016-2, 5005-2 amended. Rules 7005-1, 9013-1(m) and 9072-1(e) added. Rule 1007-1 deleted.
August 1, 2004	Rules 1002-1, 2016-1, 3016-1, 3018-2, 6004-1, 7005-1, 9013-1 and 9013-3 amended.